

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/651,496	TSURUOKA ET AL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Janet L. Coppins	1626	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants' Amendment of February 10, 2006.
2. ☒ The allowed claim(s) is/are 1-4,6,8,9,11,14-34 and 54-56.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br/>Paper No./Mail Date _____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____</li> </ol> |
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### **DETAILED ACTION**

Claims 1-4, 6, 8-9, 11, 14-34, and 54-56 are pending in the instant application.

#### ***Response to Amendment***

1. Receipt is acknowledged of Applicants' Amendment, filed February 10, 2006, which has been reviewed by the Examiner and entered in the file. Accordingly, claims 1, 2, and 8 have been amended, claims 5, 7, 10, 12, 13, and 35-53 have been cancelled, and new claims 54-56 have been added.

#### ***Claim Rejections - 35 USC § 102***

2. Claims 1-9, 11-15, 31-44 previously rejected under 35 U.S.C. 102(b) as being anticipated by Funahashi et al, WO 2002032872 A1. In view of Applicants' persuasive arguments and the submission of the translation of foreign priority papers, the Examiner withdraws the rejections of the claims.

### **EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Andrea L. C. Robidoux, Reg. No. 47,902 on March 16, 2006.

The application has been amended as follows:

a) Claim 31, please delete the first four species of the claim as directed to non-elected subject matter, i.e. delete compounds (1) – (4).

***Allowable Subject Matter***

3. Claims 1-4, 6, 8-9, 11, 14-34, and 54-56, now in amended form, are allowable, as newly renumbered claims 1-32. The following is an examiner's statement of reasons for allowance:

The instant application relates to novel carbonyl-amino-pyridyl-indole-carboxamide compounds and their pharmaceutical compositions, useful as angiogenesis inhibitors. The allowable -fungal subject matter in this case is limited to compounds of formula (I) of claim 1, that have strong angiogenesis inhibitory activity. There are nitrogenous aromatic ring compounds that are known in the art as inhibitors of angiogenesis, however the aspect of preparing the same indolyl-pyridinyl compounds as instantly claimed, according to formula (I) is novel and unobvious. . After a thorough search, the closest prior art of record, WO 02/16348 A1, teach similar indole derivatives that are anti-angiogenic, yet do not teach the same compounds as instantly claimed, or their pharmaceutical compositions. Therefore the prior art fails to anticipate, fairly suggest, or render obvious the instant claimed pyridyl-indolyl compounds.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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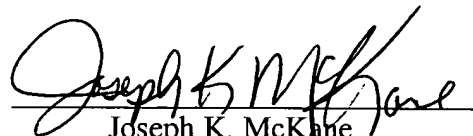
***Telephone Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet L. Coppins whose telephone number is 571.272.0680. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571.272.0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Janet L. Coppins  
March 16, 2006

  
Joseph K. McKane  
SPE, Art Unit 1626